

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION**

**DEBORAH COFFEY ICENHOUR,**

Plaintiff,

V.

## THE TOWN OF ABINGDON,

Defendant.

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Case No. 1:19CV00033

## SCHEDULING ORDER

By: James P. Jones  
United States District Judge

Pursuant to Rule 16(b)(1), it is **ORDERED** as follows:

# Trial

1. **This case is set for a jury trial in Abingdon beginning at 9:00 a.m. on October 26, 2021.** The trial is scheduled to last no longer than October 28, 2021.
2. Proposed jury instructions must be filed at least 7 days prior to trial. A copy of proposed instructions also must be sent to Judge Jones by email in Word form to jamesj@vawd.uscourts.gov.
3. A final pretrial conference and hearing on pending motions in limine will be held in Abingdon **at 10:30 a.m. on September 21, 2021.** All motions in limine must be filed no later than 7 days prior to the hearing.

4. If the case is settled, the court will dismiss the case from the docket and if no agreed final order or judgment is thereafter submitted within 60 days, or if no party files a motion to reopen within such time, the case shall, without further order, stand dismissed with prejudice. The parties are reminded that settlements that occurred with insufficient time to prevent the attendance of the jury may result in the taxing of the costs of the jury to the parties.

### **Motions**

5. A supporting brief must accompany all motions, unless the motion itself contains the legal argument necessary to support it. If the motion is opposed, a brief in opposition (other than briefs in opposition to dispositive motions) must be filed within 14 days of the service of the movant's brief. If the moving party desires to submit a reply brief, it must be filed within 7 days of the date of service of the brief opposing the motion. No brief or motion must exceed 35 pages without prior consent of the court. Any brief or motion with included exhibits that exceeds 25 pages must also be provided as a courtesy copy to the court's chambers upon filing.

6. Dispositive motions, including motions for summary judgment, must be filed no later than **June 7, 2021**. Briefs in opposition to such motions must be filed no later than 21 days following any such motion. If the moving party desires to submit a reply brief it must be filed within 14 days of the filing of the brief

opposing the motion. A hearing will be held in Abingdon on any dispositive motions and any motions to exclude the testimony of an expert on **August 2, 2021, at 10:30 a.m.**

7. If a motion is unopposed and the moving party certifies such fact in the motion, no brief need be filed, nor response made to the motion. Procedural motions, including motions for enlargement of time, whether or not opposed, may be acted upon at any time by the court, without awaiting a response, and any party adversely affected by such action may request reconsideration, vacation, or modification of such action.

### **Discovery**

8. The parties must make initial disclosures as required by Rule 26(a)(1) no later than **July 13, 2020**.

9. All discovery must be completed by no later than **May 17, 2021**. This schedule requires that written discovery be served in sufficient time to allow the responding party time to respond before the cutoff date for discovery.

10. Discovery and disclosure material is not to be filed unless and until actually used in a proceeding, except as to the disclosures and objections thereto under Rule 26(a)(3) of trial witnesses and exhibits, which must be filed.

11. All discovery disputes are hereby referred to the Honorable Pamela Meade Sargent, United States Magistrate Judge, for hearing and determination, pursuant to 28 U.S.C. § 636(b)(1)(A) and Rule 72(a). The briefing requirements set forth in this order do not apply to motions before the magistrate judge, who shall determine any briefing requirements with respect to such motions.

### **Witnesses**

12. The plaintiff must disclose expert testimony as required by Rule 26(a)(2) no later than 75 days prior to the close of discovery. The defendant must disclose such expert testimony no later than 60 days prior to the close of discovery. The plaintiff must disclose any rebuttal expert testimony no later than 45 days prior to the close of discovery.

13. Any motion to exclude the testimony of an expert based on the sufficiency or reliability of the expert's testimony must be filed no later than the deadline date for dispositive motions and the briefing and hearing for such motions will be as for dispositive motions.

14. At least 14 days prior to trial, the parties must make the pretrial disclosures of witnesses and exhibits required by Rule 26(a)(3). The parties must make objections to deposition testimony and exhibits at least 7 days prior to trial. The listing of a potential objection does not constitute the making of that objection

or require the court to rule on the objection; rather it preserves the right of the party to make the objection when and as appropriate during trial. No objection is needed and should not be listed based upon Rule 402 (relevancy) or Rule 403 (prejudice, confusion, etc.).

### **Mediation**

15. At any time, the court may refer the case to a magistrate judge to conduct nonbinding mediation. Any party may make a confidential and ex parte request for such mediation.

16. If there are any objections to this Scheduling Order, they must be made within 7 days of entry.

ENTER: June 15, 2020

/s/ James P. Jones

United States District Judge